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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (S) No. 7080 /2006 (S.B.)

PETITIONER : Vijay Kumar Paikara
S/o. Shri Main Singh Paikara
Aged about- 38 years
R/o. – Village Puraina, Post-Jarve, Through- Bhaisma
Distt.- Korba

P.R. No. 7206/06
Presented by Vivek Sharma
Date 8/12/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through Secretary,
Govt. of Chhattisgarh, Tribal Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
2. Assistant Commissioner,
Tribal Welfare Department
Distt.- Korba (C.G.)
3. The Collector,
Distt.- Korba (C.G.)
4. Block Education Officer,
Kartala, Distt.- Korba, (C.G.)

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(2) (5)

WRIT PETITION UNDER ARTICLE 226 OF

THE CONSTITUTION OF INDIA FOR ISSUANCE OF

APPROPRIATE WRIT.

(38)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 7080 of 2006

Petitioner — Vijay Kumar Paikra

Versus

Respondents — State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Shri Vivek Sharma, Advocate for the petitioner.
Ms. Sunita Jain, Panel Lawyer for the respondents/State.

O R D E R

(Passed on 20th Day of December, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. Learned counsel appearing for the petitioner submits that the petitioner was working as Upper Division Teacher at Government Middle School Kerakachhar, block-Kartala, District- Korba (C.G.). He was transferred by order dated 4.7.2006 (Annexure P/2) from Government Middle School Kerakachhar, block-Kartala, District-Korba to the Govt. Middle School, Polmi, block- Pali, District-Korba. Within a period of two days, the said order dated 4.7.2006 (Annexure P/2) was amended and by order dated 6.7.2006 (Annexure P/1), the petitioner was transferred from Government Middle School Kerakachhar, block-Kartala, District- Korba to Government Middle School Aitmanagar, Podi Uproda, District-Korba.

2. According to learned counsel for the petitioner, on the basis of the first transfer order dated 4.7.2006 (Annexure P/2), the petitioner

(39)

has joined at Govt. Middle School, Polmi, block- Pali, District- Korba on 30.8.2006 and the order dated 6.7.2006 (Annexure P/1) was not received by him after joining.

3. Learned counsel appearing for the respondents/State, per contra, submits that the order was immediately issued to the petitioner and the petitioner has received the said order dated 6.7.2006, much before his joining at Govt. Middle School, Polmi, block- Pali, District- Korba.

4. It appears that the petitioner has joined Govt. Middle School, Polmi, block- Pali, District- Korba in order to defeat the amended order dated 6.7.2006.

5. Having regard to the facts of the case, when the petitioner has received order dated 4.7.2006 and after about more than one and half months, he joined at Govt. Middle School, Polmi, block- Pali, District- Korba and the order dated 6.7.2006 which was passed within a period of two days could not be received by him for about more than 45 days is not trust-worthy. The order appears to have been passed on account of administrative exigency and in public interest.

6. Be that as it may, the petitioner has neither alleged nor proved any malafide, non-competence of the officer transferring the petitioner or violation of any rules and regulation.

7. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public

(40)

interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved mala fide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

8. Thus, this writ petition is dismissed having no merit. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash